

disclosed or to incorporate every exemption from disclosure provided by law. Material described is illustrative rather than exclusive.

**§ 404.3 Information and records available to the public and exempt from disclosure.**

(a) *General.* All Eximbank information and records in existence which are not exempt by law are available for public inspection and copying in the manner specified in § 404.4. In addition, certain materials technically qualifying for exemption from disclosure will be made available where disclosure would not adversely affect some legitimate public or private interest, would not otherwise violate law or other authority, and would not impose an unreasonable burden on Eximbank. Reasonable requests for material not in existence may also be honored where their tabulation or compilation will not unduly interfere with Eximbank activities, programs and operations. As provided in § 404.6, a fee will be charged for Eximbank's expenses incurred in searching for, duplicating, tabulating or compiling such information and records.

(b) Information and records which are available to the public.

The following kinds of records and information are available to the public in the manner specified in § 404.4:

(1) Names of recipients of loans, guarantees, insurance and other assistance,

(2) The kind and amount of assistance,

(3) The purpose of the approved assistance in general terms,

(4) The extent of outside participation, if any, and

(5) Statistical data on Eximbank programs.

(c) Information which is generally not available to the public. The following kinds of information are generally not available to the public:

(1) Information on declined, withdrawn, or cancelled applications for assistance,

(2) Trade secrets obtained from applicants for Eximbank assistance,

(3) Privileged or confidential commercial or financial information obtained from any person, including, for example, such information contained

in individual case files relating to such activities as loans, guarantees and insurance,

(4) Loan agreements, insurance policies and bank guarantee agreements relating to individual borrowers or foreign buyers receiving Eximbank assistance,

(5) Information concerning losses, delinquencies and defaults in individual cases, and

(6) Names of participating lending institutions and the terms of their participation without their consent.

(d) Minutes of the meetings of the Board of Directors. These are available for inspection and copying in Eximbank's Office of the Secretary in Room 933, 811 Vermont Avenue NW., Washington, DC 20571.

(e) Personnel and similar files. Exempt from disclosure are personnel, medical and other files containing private or personal information. The names, position titles, and duty stations of Eximbank employees are public information but their home addresses are not. The disclosure of private or personal information contained in other files, for example, in the files relating to members of Eximbank's Advisory Board and to applicants for Eximbank assistance, also would be exempt.

(f) *Eximbank staff directives and other instructions to staff.* All staff directives are considered public information except: (1) Those relating to audits and investigations, internal financial management and fiscal operations, and (2) portions of directives containing confidential standards and instructions, as, for example, instructions concerning processing loan, guarantee or insurance applications, negotiations or bargaining in connection with the disposition and liquidation of loans, and loan collateral held by Eximbank.

(g) *Litigation materials.* Copies of pleadings, motions, orders, transcripts of testimony, and documentary evidence introduced in pending or closed litigation are available once such items are a matter of public record.

(h) *Internal communications.* Inter-agency or intraagency communications not routinely available to a party to litigation with Eximbank are exempt from disclosure. These would include,

among other things, drafts, memoranda between officials or agencies, Eximbank staff memoranda, opinions and interpretations prepared by Eximbank attorneys or consultants for use of Eximbank, research studies performed internally or under contract for internal management purposes, and internal management reports.

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**§ 404.4 Public access to information and records.**

(a) *Facilities.* Eximbank facilities are available to the public during normal business hours for requesting, inspecting and copying information and records. Reproduction machines will also be available in or through such facilities. The Public Affairs Office is located in Room 1267, 811 Vermont Avenue NW., Washington, DC 20571.

(b) *Materials available in Public Affairs Office.* (1) For the convenience of the public, certain Eximbank materials will be maintained and readily available in the public information office. These will include:

- (i) All Eximbank directives and manuals not exempt from disclosure,
  - (ii) Eximbank Rules and Regulations (including Interpretations), and
  - (iii) Index of Eximbank materials, including lists of staff directives, forms, reports, and Eximbank official actions.
- (2) The public affairs office will, in addition to the above, have normally available, among other things:
- (i) Pamphlets describing Eximbank Programs,
  - (ii) Press releases,
  - (iii) Names of recipients of Eximbank support and related information not exempt from disclosure,
  - (iv) Eximbank's Annual Report to the President and the Congress,
  - (v) Routine statistical reports on Eximbank activities,
  - (vi) Minutes of Meetings of the Board of Directors, and
  - (vii) Blank Eximbank forms.

(c) *Requests for information and records.* Requests for information, records and other materials not readily available at the Public Affairs Office are to be submitted and processed in accordance with the following procedures:

(1) *Form of request.* Each request shall be addressed to the Export-Import Bank of the United States, Attention: Office of the Secretary in Room 933, 811 Vermont Avenue, NW., Washington, DC 20571. The envelope and the letter containing the request must be clearly marked in capital letters as follows: FREEDOM OF INFORMATION ACT REQUEST. A request submitted in an envelope which is not addressed to the Senior Vice President—Research and Communications will not be deemed to have been received by Eximbank until such time as the request is forwarded to such officer. All requests must be in writing and must be marked and addressed as specified in this section.

(2) *Description of material requested.* Each request shall reasonably describe the document or information with respect to names, dates and subject matter to permit it to be located among the records maintained by Eximbank. A request that does not substantially comply with paragraph (c)(2) of this section will not be deemed to have been received by Eximbank until such time as the requester has clarified his request to meet this standard. Eximbank will make every reasonable effort by telephone or by letter to assist the person making the request to be more specific in describing the document or information.

(3) *Notification of Eximbank action.* The person making the request normally will be notified of the availability of the material within 10 working days after the date of receipt of the request. If Eximbank determines to comply in whole or part with a request for records, the information or records shall be made available promptly provided the requirements of paragraph (c)(6) of this section regarding payment of fees are satisfied. Any denial of a request in whole or in part shall be made in writing by the General Counsel or his designee. The letter shall set forth the reasons for the denial. Any person whose request for information has been denied may appeal from such determination in accordance with § 404.5.

(4) *Extension of time.* In certain unusual circumstances, as set forth below, the period of time within which